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EXAMINER				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/544,403

Applicant(s)

DEI, HIROAKI

Examiner

JEAN D. SAINT CYR

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 12, 14, 25, 35 and 44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 12, 14, 25, 35 and 44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/06)
- Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Double Patenting

Claims 1 and 44 are provisionally rejected on the ground of nonstatutory double patenting over claim 24 of copending Application No. 10546448. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: claims 1, 44 are obvious variants and encompassed by claim 24 of the application' 448'.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 12, 14, 25, 35, 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Sato et al, US Patent No. 6895216.

Re claim 12, Sato et al disclose means for receiving session information notified by a video data distribution device(receives one of sets of the multicast information sent from the information delivery apparatus by using transmission conditions selected based on the measured reception quality, col.4, lines 32-34; that means transmission information was received)

means for receiving video encoded data distributed by a video data distribution device based on said session information, and selecting video encoded data from encoded data, received normally based on the video quality and/or the compression ratio(In response to the request signal requesting a multicast group, the wireless base station 20 transmits to the wireless terminal 10 the transmission conditions of multicast information corresponding to the requested multicast group, col.6, lines 32-34; that means the users received encoded video corresponding to their request); and

means for decoding video encoded data selected (decode the received signal based on the demodulation scheme corresponding to the BPSK modulation scheme, col.10, lines 58-60)

Re claim 14, Sato et al disclose a video data distribution device distributing video data, and a video data reception device receiving video data distributed by said video data distribution device; wherein said video data distribution device comprises means for selecting a session of distribution according to the compression ratio when it distributes video encoded data of the same video, but having different compression ratios(each wireless terminal selects one of the multiple sets of transmission conditions such that the selected set of conditions provide the highest service quality within the capacity of the measured reception quality in paragraph 54; that means session was selected according to transmission rate), and for at least one session of distribution transmission is performed by multicast or broadcast(based on the measured reception quality, the selected transmission condition being used for receiving one of the sets of multicast information, col.3, lines 56-59; that means multicast technique was used for the transmission).

Re claim 25, Sato et al disclose distributing, by said video data distribution device, video encoded data of the same video, but having different compression ratios (a method of providing a multicast service from information delivery apparatus to wireless terminals through wireless routes includes the steps of transmitting, from the information delivery apparatus, a plurality of sets of multicast information, said sets being identical to each other as to contents thereof but differing in transmission conditions, col.2.2, lines 27-33; that means all the contents identical, but the rates of the transmission are different); and

controlling the quality of a video received by a receiver by changing session information notified according to the receiver(a wireless terminal that cannot attain sufficient reception quality at a high transmission rate can choose to receive the multicast information delivered at a low transmission rate, col.2, lines 56-59; delivery apparatus can deliver the multicast information by using transmission conditions suitable to each wireless terminal's reception quality, the method as described above further includes the steps of measuring reception quality at each of the wireless terminals, and notifying the information delivery apparatus of measured results of the reception quality, and determining, at the information delivery apparatus, the differing transmission conditions based on the measured results of the reception quality, the differing transmission conditions being used to transmit the plurality of sets of multicast information, col.3, lines 26-36; that means rate of the transmission was changed according to information received from the receiving unit); wherein

at least one session of distribution is transmitted in multicast or broadcast (based on the measured reception quality, the selected transmission condition being used for receiving one of the sets of multicast information, col.3, lines 56-59; that means multicast technique was used for the transmission).

Re claim 35, see rejection on claim 25.

Re claim 44, a video data distribution device, a video data reception device, and a transmission path for transmitting information from said video data distribution device to said video data reception device (an information delivery apparatus for delivering multicast information to wireless terminals through wireless routes (col.4, lines 19-21; that means there are headend, receiver and path); wherein

said video data distribution device comprises; means for distributing multiple video encoded data of the same video, but having different compression ratios in multiple different sessions (a plurality of sets of multicast information, said sets being identical to each other as to contents thereof but differing in transmission conditions, col.2, lines 27-33; that means all the contents identical, but the rates of the transmission are different); and

means for notifying information including information on a session permitted to be distributed and/or a video quality permitted to be received to said video data reception device (notifying the information delivery apparatus of measured results of the reception quality, and determining, at the information delivery apparatus, the differing transmission conditions based on the measured results of the reception quality, the differing transmission conditions being used to transmit the plurality of sets of multicast information, col.3, lines 26-36); provided that at least one session of distribution is transmitted in multicast or broadcast (based on the measured reception quality, the selected transmission condition being used for receiving one of the sets of multicast information, col.3, lines 56-59; that means multicast technique was used for the transmission);

and said video data reception device comprises; means for receiving video encoded data distributed in at least one session based on session information notified by said video data distribution device (includes the steps of measuring reception quality at each of the wireless terminals, and notifying the information delivery apparatus of measured results of the reception quality, and determining, at the information delivery apparatus,

the differing transmission conditions based on the measured results of the reception quality, the differing transmission conditions being used to transmit the plurality of sets of multicast information (paragraph 28, that means the terminals received encoded contents according to the result of reception quality that was measured);

means for selecting data from received video encoded data based on the video quality and/or the compression ratio (each wireless terminal selects one of the multiple sets of transmission conditions such that the selected set of conditions provide the highest service quality within the capacity of the measured reception quality in paragraph 54; that means session was selected according to transmission rate), and reconstructing it into one piece of video encoded data (The multicast information compressed in this manner is then delivered from the transceiver 21 to the wireless terminals, paragraph 45); and

means for decoding reconstructed video encoded data (n a given wireless terminal that receives the multicast information at a given transmission rate, the control unit 13 decompresses the received multicast information by using a decompression algorithm corresponding to the compression algorithm, thereby producing the original multicast information (paragraph 46)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaga et al in view of Sato et al, US No. 6895216.

Re claim 1, Yamaga et al disclose means for multicast or broadcast distributing video encoded data of the same video, but having different compression ratios (the present invention provides a method of distributing digital content data via communications between an order terminal and a main server having the steps of: storing N (an integer of two or more) number of digital content data having the same contents but different from each other on compression ratio, 0015); and

But Yamaga et al did not explicitly disclose means for selecting a session of multicast or broadcast distribution according to the compression ratio.

However, Sato et al disclose each wireless terminal selects one of the multiple sets of transmission conditions such that the selected set of conditions provide the highest service quality within the capacity of the measured reception quality in paragraph 54; that means session was selected according to transmission rate.

It would have been obvious to combine the system of Yamaga with the system of Sato for the benefit of giving opportunities to users to select session that is suitable to their receiver.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Duclos Saintcyr whose phone number is 571-270-3224. The examiner can normally reach on M-F 7:30-5:00 PM EST. If attempts to reach the examiner by telephone are not successful, his supervisor, Brian Pendleton, can be reached on 571-272-7527. The fax number for the organization where the application or proceeding is assigned is 571-273-8300. Information regarding the status of an

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application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, dial 800-786-9199(IN USA OR CANADA) or 571-272-1000.

Jean Duclos Saintcyr

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2623